

## REMARKS

Claim 18 has been amended. Claims 18, 20-23 and 28 are still pending.

### 1. Obviousness-Type Double Patenting

Claims 18, 20-23 and 28 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over certain claims of U.S. Patent Nos. 6,604,537, 6,209,557, 5,778,915, 5,579,799 and 5,560,385. In response, even though Applicant does not agree with these rejections, Applicant will submit a terminal disclaimer for U.S. Patent Nos. 6,604,537, 6,209,557 and 5,778,915 after the other substantive rejections have been overcome. However, Applicant respectfully traverses the obviousness-type double patenting rejection based on U.S. Patent Nos. 5,579,799 ("the '799 patent") and 5,560,385 ("the '385 patent") as follows.

First, claims 1 and 9 of the '799 patent recite a collapsible structure having at least three **side** panels that are **connected via adjacent sides** to form an enclosed interior space. In contrast, claim 18 of the present application recites the following limitations that are not found in claims 1 and 9 of the '799 patent:

- a. a collapsible structure having a side member **connected at its bottom side** to a first side of a **base** member;
- b. **flat** members; and
- c. the base member rests on a surface when the structure is in the deployed configuration.

Claims 1 and 9 of the '799 patent are silent about flat panels and base panels. In addition, claim 18 of the present application does not recite the enclosing of any interior space.

Similarly, claim 1 of the '385 patent recites a collapsible structure having at least three **side** panels that are **connected via adjacent sides**, with each side panel having a **square** configuration, and **each side panel having a bottom side that is adapted to rest on a surface** to support the structure. In contrast, claim 18 of the present application recites the following limitations that are not found in claim 1 of the '385 patent:

- a. a collapsible structure having a side member **connected at its bottom side** to a first side of a **base** member;
- b. **flat** members;
- c. the base member rests on a surface when the structure is in the deployed configuration.

In addition, claim 18 of the present application does not provide a bottom side for each

side panel that rests on a surface to support the structure. Claim 1 of the '385 patent is silent about flat panels and base panels. In addition, claim 18 of the present application does not recite square panels or members.

Thus, claim 18 of the present application is quite different, and patentably distinct, from the claims of the '799 and '385 patents. Claim 18 of the present application recites a structure that is both different, and patentably distinct, from the structures recited in the claims of the '799 and '385 patents. Thus, withdrawal of the obviousness-type double patenting rejection based on the '799 patent and the '385 patent is respectfully requested.

2. USP 5,249,592 to Springer et al. ("Springer")

Claims 18, 20-22 and 28 stand rejected under 35 USC 102(b) as being anticipated by Springer. This rejection is respectfully traversed.

Independent claim 18 has been amended to recite that the frame members for the side member and the base member are individually retained in different frame retaining sleeves, as suggested by the Examiner on page 5 of the Final Office Action. In contrast, Springer does not teach or suggest individually retaining the frame members for the side member and the base member in different frame retaining sleeves. This is best illustrated in FIG. 5 of Springer.

Thus, claim 18, and claims 20-22 and 28 depending therefrom, are allowable over Springer.

3. USP 5,038,812 to Norman ("Norman")

Claims 18, 20-23 and 28 stand rejected under 35 USC 102(b) as being anticipated by Norman. This rejection is respectfully traversed.

Independent claim 18 has been amended to recite that the side member and the base member are flat. See FIGS. 1, 5A, 5B, 6 and 7 of the present application.

In contrast, when all the embodiments in Norman are carefully examined, it is clear that Norman does not teach or suggest flat side members.

First, the embodiment 100 is illustrated in FIGS. 1-17 of Norman. FIGS. 1 and 9 are perspective views that clearly show that the side members 102 are curved when deployed. FIG. 6 is a top plan view of a side member (see column 4, lines 29-31 and column 5, lines 62-64), and is not a side plan view, of a side member. FIGS. 11 and 12 show the side members folded against each other, and not when they are in the deployed configuration. Thus, FIGS. 11 and 12 do not conclusively show whether the side members are flat or curved, but this is not relevant because the relevant drawings are FIGS. 1 and 9, which, as set forth above, clearly show that the side members are curved

when they are in the deployed configuration.

Second, the embodiment 200 in FIGS. 18 and 19 also disclose curved side members when the side members are in the deployed configuration. For example, column 8, lines 3-8 state that the "side members 202 are skewed about axis 203", which clearly evidences that the side members 202 are curved, and are not flat.

Third, the other embodiments illustrated in the perspective views of FIGS. 20, 22, 26, 30 and 31 clearly show curved side members.


In addition, the structures in Norman would be inoperable if one were to lay one of the side members 102, 202 on the floor as a base member. In particular, since all of these side members are curved or skewed, none of these side members can be used as a base panel since doing so would destroy the structure and the connections between the adjacent side members.

Thus, claim 18, and claims 20-23 and 28 depending therefrom, are allowable over Norman.

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In light of the above, it is respectfully submitted that all pending claims are in condition for allowance. The Examiner is encouraged to phone the undersigned if the Examiner has any amendments or suggestions for putting this application in condition for allowance.

Respectfully Submitted,

  
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Date: June 23, 2005

By: 

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